IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10482 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VASANT NATURE CURE HOSPITAL & PRATIBHA MATERNITY HOSP.TRUST

Versus

LOK PRAKASHAN LTD.

Appearance:

MR MC BHATT for Petitioner

MR NANDISH CHUDGAR for Respondent No. 1

MR MA BUKHARI, AGP, for Respondent No. 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/06/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner, a charitable trust was granted certain lands as `Gift" by Thaltej Panchayat vide

registered gift deed dated 4-7-62, which was regranted by respondent No.2 to the petitioner on 31-3-1971. As per the case, this land is bearing survey No.29, 30 and 47 of sim of village Thaltej of District Ahmedabad. The petitioner has come up with a case that they are in possession of these lands. The respondent passed an order on 11-4-1995 in the proceedings under the Bombay Land Revenue Code with regard to the land bearing survey No.47 paiki and was ordered to be forfeited and the matter was forwarded to the Government for further inquiry. Against this order, the petitioner has taken further proceedings before the Special Secretary under which the stay has been granted and this matter is stated to be pending. The petitioner filed this petition on apprehension that some part of the land in question bearing Survey No.30 has been granted to respondent No.1 by District Collector in the year 1992.

3. The respondents have contested this petition and filed reply thereto. Further rejoinder has been filed by the petitioner.

4. In this case, I fail to see any justification in the approach of the petitioner directly to this court. It is no more now in dispute that under the impugned order annexure `F' of the District Collector, Ahmedabad dated 3-5/6-92, the land mentioned therein has been allotted to the respondent No.1. Against this order, the petitioner should have approached to the higher authority in the hierarchy rather than to directly come to this court. The dispute of the nature as raised in this matter by both the parties also needs to be gone into on the question of facts for which appropriate remedy could have been for the petitioner to file a representation-cum-appeal before the State Government. Moreover, when the petitioner felt aggrieved of this order as what it is stated that this land belong to the petitioner, it has all the right to approach to the State Government for the adjudication of this dispute. In view of these facts, the petitioner has to be relegated to the remedy to approach the Secretary concerned of the State of Gujarat by filing a representation-cum-appeal. Interim relief has been granted by this court and the parties are in agreement that it continues till this date. As now the stay is operating, I consider it to be in the interest of justice as well as in the larger interest of the parties to continue it till the matter is decided by the Secretary concerned. In this case, the State of Gujarat is impleaded as a party through the Chief Secretary, Land Revenue Department, Sachivalaya, Gandhinagar. Looking to the facts of this case,

otherwise also, I consider it to be appropriate that this matter may be taken up and decided by the Chief Secretary of the State of Gujarat.

5. In the result, this special civil application is disposed of in terms that for the grievances which have been made by the petitioner in this special civil application against the impugned order, it may make a representation-cum-appeal to the Chief Secretary of the State of Gujarat and the Chief Secretary of the State of Gujarat is directed to decide the representation-cum-appeal of the petitioner after hearing the respondent No.1 or its officer concerned within a period of two months from the date of receipt thereof. Till the matter is decided by the Chief Secretary, the interim relief granted by this court shall continue and it shall continue further for three weeks where the matter is decided against the petitioner. Liberty is granted to the petitioner for revival of this special civil application in case of difficulty by filing a simple note. The special civil application and Rule stand disposed of accordingly with no order as to costs.

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